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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,957	02/10/2006	Alfredo C. Fajardo	YSAP.VERITAS.PT1	5363
24943 7590 06/24/2010 INTELLECTUAL PROPERTY LAW GROUP LLP 12 SOUTH FIRST STREET SUITE 1205 SAN JOSE, CA 95113				
EXAMINER SHAIKH, MOHAMMAD Z				
ART UNIT 3694		PAPER NUMBER		
NOTIFICATION DATE 06/24/2010		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

pt\_docket@iplg.com

### Office Action Summary

**Application No.**

10/567,957

**Applicant(s)**

FAJARDO, ALFREDO C.

**Examiner**

MOHAMMAD Z. SHAIKH

**Art Unit**

3694

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 March 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25, 50-75 and 80-82 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25, 50-75, 80-82 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-06)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This Office Action is in response to an amendment received on 03/22/10 for patent application 10,567,957.

### **Status of Claims**

2. Claims 1-23, 50-75, 80-82 are pending.

### **Claim Rejections- 35 U.S.C § 103**

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-23, 63-66, 69-74, 80-82 are being rejected under 35 U.S.C 103(a) as being unpatentable over UK PATENT APPLICATION (GB 2372615) to MacNamee in view of US Patent 5,991,749 to Morrill, JR.

Regarding claim 1, MacNamee discloses a system for facilitating payment via a communications network using value accredited to a customer of an operator of the communications network, the system comprising: a first communications device owned and/or operated by the customer, the first communications device operable via the communications network and the communications message being sent by means of the first communications device (Abstract; Fig 2). However MacNamee does not disclose a payment facilitator; a billing system operable to provide billing functions to the operator for use of the communications network, both the customer and the payment facilitator

each having at least one account with the operator and recorded with the billing system; and a recipient, where, when the payments facilitator receives a communications message from the customer, the payments facilitator operates to instruct the billing system to debit an amount to be paid to the recipient from the customer's at least one account and operates to instruct the billing system to credit the amount to be paid to the recipient to the payments facilitator's at least one account and, wherein, the payments facilitator then operates to make a payment to the recipient equal to the amount to be paid. Morill, Jr. discloses a payment facilitator; a billing system operable to provide billing functions to the operator for use of the communications network, both the customer and the payment facilitator each having at least one account with the operator and recorded with the billing system; and a recipient, where, when the payments facilitator receives a communications message from the customer, the payments facilitator operates to instruct the billing system to debit an amount to be paid to the recipient from the customer's at least one account and operates to instruct the billing system to credit the amount to be paid to the recipient to the payments facilitator's at least one account and, wherein, the payments facilitator then operates to make a payment to the recipient equal to the amount to be paid (column 3: lines 22-36, column 4: lines 1-13, 17-30). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify MacNamee's invention to include a payment facilitator; a billing system operable to provide billing functions to the operator for use of the communications network, both the customer and the payment facilitator each having at least one account with the operator and recorded with the billing system;

and a recipient, where, when the payments facilitator receives a communications message from the customer, the payments facilitator operates to instruct the billing system to debit an amount to be paid to the recipient from the customer's at least one account and operates to instruct the billing system to credit the amount to be paid to the recipient to the payments facilitator's at least one account and, wherein, the payments facilitator then operates to make a payment to the recipient equal to the amount to be paid. One of ordinary skill in the art would have been motivated to include a payment facilitator; a billing system operable to provide billing functions to the operator for use of the communications network, both the customer and the payment facilitator each having at least one account with the operator and recorded with the billing system; and a recipient, where, when the payments facilitator receives a communications message from the customer, the payments facilitator operates to instruct the billing system to debit an amount to be paid to the recipient from the customer's at least one account and operates to instruct the billing system to credit the amount to be paid to the recipient to the payments facilitator's at least one account and, wherein, the payments facilitator then operates to make a payment to the recipient equal to the amount to be paid in order to ensure that the entire payment process operates as efficiently as possible.

Regarding claim 16, MacNamee discloses a system for facilitating payment according to claim 14 or claim 15. MacNamee further discloses where the payments facilitator identifies the recipient by comparing a unique merchant identifier embodied in the communications message, associated with the destination address, or included within the destination address, as appropriate, against unique merchant identifiers

stored in a merchant look-up table, each unique merchant identifier in the merchant look-up table being associated with further information in respect of the merchant (page 23).

Claim 2 is being rejected using the same rationale as claim 1.

Claim 3 is being rejected using the same rationale as claim 2.

Claim 4-15 are being rejected using the same rationale as claim 1.

Regarding claim 17, MacNamee discloses the system for facilitating payment to claim 1 or 6. However MacNamee does not disclose where the instruction to the billing system to debit the amount to be paid takes the form of a command representative of the customer. Morrill Jr. discloses where the instruction to the billing system to debit the amount to be paid takes the form of a command representative of the customer (column 3: lines 25-36). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify MacNamee's invention to include where the instruction to the billing system to debit the amount to be paid takes the form of a command representative of the customer. One of ordinary skill in the art would have been motivated to include where the instruction to the billing system to debit the amount to be paid takes the form of a command representative of the customer in order to ensure that only authorized requests to the billing system are completed. MacNamee further discloses using the first communication device having a tariff rate closest to the amount to be paid to the recipient (page 2).

Regarding claim 18, MacNamee discloses a system for facilitating payment via a communications network using value accredited to a customer of an operator of the communications network, the system comprising: a first communications device owned and/or operated by the customer, the first communications device operable via the communications network and a recipient (Abstract; Fig 2). However MacNamee does not disclose where, when the payments facilitator receives a communications message from the customer, the communications message being sent by means of the first communications device a billing system operable to provide billing functions to the operator for use of the communications network, both the customer and the recipient each having at least one account with the operator and recorded ,with the billing system; and a payments facilitator, the payments facilitator issues an instruction to the billing system in the form of a command representative of the customer having initiated a communication using the first communication device. Morrill Jr, discloses where, when the payments facilitator receives a communications message from the customer, the communications message being sent by means of the first communications device a billing system operable to provide billing functions to the operator for use of the communications network, both the customer and the recipient each having at least one account with the operator and recorded ,with the billing system; and a payments facilitator, the payments facilitator issues an instruction to the billing system in the form of a command representative of the customer having initiated a communication using the first communication device and operates to issue an instruction to the billing system in the form of a command representative of the recipient

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having made a payment to the operator equal to the amount to be paid to the recipient (column 3: 23-35). Therefore it would have been obvious to one of ordinary skill in the art the time of the invention to modify MacNamee's invention to include where, when the payments facilitator receives a communications message from the customer, the communications message being sent by means of the first communications device a billing system operable to provide billing functions to the operator for use of the communications network, both the customer and the recipient each having at least one account with the operator and recorded ,with the billing system; and a payments facilitator, the payments facilitator issues an instruction to the billing system in the form of a command representative of the customer having initiated a communication using the first communication device and operates to issue an instruction to the billing system in the form of a command representative of the recipient having made a payment to the operator equal to the amount to be paid to the recipient. One of ordinary skill in the art would have been motivated to include where, when the payments facilitator receives a communications message from the customer, the communications message being sent by means of the first communications device a billing system operable to provide billing functions to the operator for use of the communications network, both the customer and the recipient each having at least one account with the operator and recorded ,with the billing system; and a payments facilitator, the payments facilitator issues an instruction to the billing system in the form of a command representative of the customer having initiated a communication using the first communication device and operates to issue an instruction to the billing system in the form of a command representative of the recipient



having made a payment to the operator equal to the amount to be paid to the recipient in order to ensure that only authorized requests to the billing system are completed. McNamee further discloses the first communication device having a tariff rate closest to the amount to be paid to the recipient (page 2).

Claims 19-23, 63-66, 74, 80-82 are being rejected using the same rationale as claim 18.

Claims 69-73 are being rejected using the same rationale as claim 1.

#### **Claim Rejections- 35 U.S.C § 102**

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 50-62, 67 are being rejected under 35 U.S.C 102(b) as being anticipated by Morrill JR.

Regarding claim 50, Morrill JR discloses a method of facilitating payment via a communications network using value accredited to a customer of the operator of the communications network, the method comprising the steps of: (a) receiving a communications message from the customer sent by means of a first

communications device operable via the communications network (column 4: lines 2-13)

(b) instructing a billing system operable to provide billing functions to the operator for use of the communications network to debit an amount to be paid to a recipient from the customer's at least one account with the operator and recorded with the billing system (column 4: lines 17-30)

(c) instructing the billing system to credit the amount to be paid to the recipient to an account with the operator and recorded with the billing system, the account being owned by a third party (column 4: lines 1-13)

(d) arranging payment of the amount to be paid to be made by the third party to the recipient (column 4: lines 1-13)

Claims 51-53 are being rejected using the same rationale as claim 50.

Regarding claim 54, Morrill JR, discloses a method of facilitating payment via a communications network using value accredited to a customer of an operator of the communications network, the method comprising the steps of: (a) receiving a communications message from the customer sent by means of a first communications device operable via the communications network (column 4: lines 2- 13)

; (b) communicating with a recipient to specify the amount to be paid to the recipient, the recipient also being a customer of the operator (column 32-37); (c) instructing a billing system operable to provide billing functions to the operator of the communications network to debit an amount to be paid to the recipient from the

customer's at least one account with the operator and recorded with the billing system (column 4: lines 17-30)

; and (d) instructing the billing system to credit the amount to be paid to the recipient to the recipient's at least one account with the operator and recorded with the billing system. (column 4: lines 1-13)

Claims 55-62 are being rejected using the same rationale as claim 54.

Claim 67 is being rejected using the same rationale as claim 54.

7. Claims 24-25,48, 68,75 are being rejected under 35 U.S.C 103(a) as being unpatentable over MacNamee in view of Morrill JR, and further in view of Official Notice.

Regarding claim 24, MacNamee discloses a system for facilitating payment according to any preceding claims 1,6, or 18. However, MacNamee does not disclose an operation to instruct the billing system to debit the amount to be paid to the recipient to the identified recipient's at least one account. Morrill JR discloses an operation to instruct the billing system to debit a further amount from the customer's (column 4: lines 17-30). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify MacNamee's invention to include an operation to instruct the billing system to debit a further amount from the customer's. One of ordinary skill in the art would have been motivated to include an operation to instruct the billing system to debit a further amount from the customer's in order to ensure that all parts of the

billing process are available on one network. MacNamee does not disclose an account representative of commission and/or transaction costs. *Official Notice* is taken that commission and transactions pertaining to accounts are old and well known in the art. One of ordinary skill in the art would have been motivated to include that commission and transactions pertaining to accounts in order to ensure that the service provider is properly compensated.

Claim 25 is being rejected using the same rationale as claim 24.

Claim 68 is being rejected using the same rationale as claim 24.

Claim 75 is being rejected using the same rationale as claim 24.

**RESPONSE TO ARGUMENTS**

1. Applicant's arguments with respect to claims 1-25, 50-75, 80-82 have been considered but are moot in view of the new ground(s) of rejection.

### **CONCLUSION**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MOHAMMAD Z. SHAIKH whose telephone number is (571)270-3444. The examiner can normally be reached on Monday-Friday (9:30-6:00); alt Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim Tramell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. Z. S./  
Examiner, Art Unit 3694  
6/18/2010

/Ella Colbert/, Primary Examiner,  
Art Unit 3694